

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

TAVONDA WILLIS

v.

KROGER TEXAS, LP

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CASE NO. 4:22-cv-3467
JURY

NOTICE OF REMOVAL

PLEASE TAKE NOTICE THAT Defendant, Kroger Texas L.P. (incorrectly identified as “Kroger Texas, LP” and hereinafter “Defendant”), while fully reserving all rights and defenses, files this Notice of Removal to the United States District Court for the Southern District of Texas, Houston Division. Removal is proper under 28 U.S.C. §§1332 and 1441(a) because this is an action over which the United States District Court for the Southern District of Texas, Houston Division, has original diversity jurisdiction, as it is an action between citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. In support of its Notice of Removal, Defendant would respectfully show as follows:

I. GROUNDS FOR REMOVAL

1. This case is removable to this Court based on diversity jurisdiction under 28 U.S.C. §§1332 and 1441(a).

2. Plaintiff Tavonda Willis (hereinafter referred to as “Plaintiff”) is a citizen of and an individual residing in Harris County, Texas.

3. Kroger Texas L.P. is a limited partnership. KRGP, Inc. is the General Partner of Kroger Texas L.P., and KRLP, Inc. is the Limited Partner of Kroger Texas L.P. Both are organized and existing under the laws of the State of Ohio.

4. As described more fully below, the amount in controversy exceeds the \$75,000.00

jurisdictional limits, excluding interest and costs.

II. PENDING STATE SUIT

5. On August 31, 2022, Plaintiff filed a civil action against Defendant in Cause No. 2022-54772, styled *Tavonda Willis v. Kroger Texas, LP* in the 333rd Judicial District Court of Harris County, Texas.¹

6. According to Plaintiff's Original Petition and Request for Disclosures ("Original Petition"), on or about December 18, 2021, she was purportedly injured at a store located at 9125 W. Sam Houston Parkway N., Houston, Texas 77064, which was allegedly owned, occupied and/or controlled by Defendant.²

7. Plaintiff claims that "[Plaintiff] was walking inside of the grocery store in an aisle near the detergent products when she slipped thought [*sic*] to be liquid detergent and falling [*sic*] onto the floor striking her body and twisting her ankle."³ As a result of the alleged incident, Plaintiff claims she suffered "serious injuries."⁴

8. The name and address of the Court from which the case is being removed is:

333rd Judicial District Court
Harris County Civil Courthouse
14th Floor
201 Caroline Street
Houston, Texas 77002

III. STATE COURT DOCUMENTS

9. The following documents are attached to this Notice of Removal:

Exhibit A Plaintiff's Original Petition and Request for Disclosures

Exhibit B Notice of Service

¹ See Plaintiff's Original Petition and Request for Disclosures attached hereto as Exhibit A.

² *Id.* at ¶ 6.1.

³ *Id.*

⁴ *Id.*

- Exhibit C Defendant's Original Answer
- Exhibit D An index of matters being filed
 - D-1 Copy of the state court Docket Sheet/Record
 - D-2 Copy of Citation
 - D-3 A list of all counsel of record, addresses, telephone numbers, and parties
 - D-4 Civil Cover Sheet

IV. TIMING OF REMOVAL

10. Defendant was served with Plaintiff's Original Petition through its registered agent for service of process, CSC Corporation Service Company, on September 7, 2022.⁵ Defendant timely filed its answer.⁶

11. This Notice of Removal is being filed within 30 days after receipt of Plaintiff's Original Petition and is timely filed under 28 U.S.C. §1446(b).⁷

V. JURISDICTION

12. Pursuant to 28 U.S.C. §1332, a Defendant has the right to remove a case to federal court if the case involves a dispute between completely diverse parties and the amount in controversy, excluding interest and costs, exceeds \$75,000.00.

13. Plaintiff's Original Petition asserts that she seeks monetary relief of "over \$250,000.00 but no more than \$1,000,000.00 dollars."⁸ Based on the allegations in Plaintiff's Original Petition, this matter is removable to this Court under 28 U.S.C. §1332 because the amount in controversy, excluding interests and costs, exceeds \$75,000.00.

⁵ See Return on Service attached hereto as Exhibit B.

⁶ See Defendant's Original Answer attached hereto as Exhibit C.

⁷ 28 U.S.C. §1446(b).

⁸ See Exhibit A, ¶ 4.1.

14. Plaintiff also alleges in her Original Petition that she is a resident of Texas.⁹

15. Defendant Kroger Texas L.P. is organized and exists under the laws of the State of Ohio.

16. Accordingly, there exists complete diversity of citizenship between Plaintiff and Defendant under 28 U.S.C. §1332.

VI. VENUE

17. Pursuant to 28 U.S.C. §1441(a), venue for this action is proper in the United States District Court for the Southern District of Texas, Houston Division, as it is the federal judicial district that encompasses the 333rd Judicial District Court of Harris County, Texas, where the state action was originally filed.

VII. NOTICE TO ADVERSE PARTIES AND TO STATE COURT

18. As the removing party, Defendant will give Plaintiff prompt written notice of this Notice of Removal as required by 28 U.S.C. §1446(d).

19. Defendant will also file a copy of this Notice of Removal with the 333rd Judicial District Court of Harris County, Texas, where the state court action is currently pending, as required by 28 U.S.C. §1446(d).

VIII. ANSWER

20. Defendant timely filed an answer in the state court action. By removing this action to this Court, Defendant does not waive any defenses, objections, or motions available to it under state or federal law and will timely file responsive pleadings to Plaintiff's Original Petition in this Court as well.

PRAYER

21. **FOR THESE REASONS** and in conformity with 28 U.S.C. §1446, Defendant

⁹ See Exhibit A at ¶ 3.1.

respectfully removes the civil action styled Cause No. 2022-54772, styled *Tavonda Willis v. Kroger Texas L.P.* on the docket of the 333rd Judicial District Court of Harris County, Texas. Defendant prays for such other and further relief, both general and special, at law and in equity, to which it may show itself justly entitled.

Respectfully submitted by,

/s/ Adraon D. Greene

Adraon D. Greene

Attorney-in-Charge

State Bar No. 24014533

Federal Bar No. 25029

agreene@gallowaylawfirm.com

Colin Parker

State Bar No. 24102329

Federal Bar No. 3772372

cparker@gallowaylawfirm.com

OF COUNSEL:

GALLOWAY, JOHNSON, TOMPKINS

BURR & SMITH

1301 McKinney Suite 1400

Houston, Texas 77010

(713) 599-0700 – Phone

(713) 599-0777 – Fax

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of October 2022, a copy of the above and foregoing was filed electronically with the Clerk of Court using the CM/ECF system, which will send a notice of electronic filing to all CM/ECF participants. I also certify that I have forwarded this filing by regular U.S. Mail, postage pre-paid, this same day to all non-CM/ECF participants.

Donald G. DeSimone
DESIMONE LAW OFFICE
4635 Southwest Freeway
Suite 850
Houston, TX 77027
Email: ddesimone@desimonelawoffice.com

ATTORNEY FOR PLAINTIFF

/s/ Colin Parker

Adraon D. Greene
Colin Parker